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No. 04-569 OCT 20 2004

OFFICE OF THE CLERK

In The

Supreme Court of the United States

IN RE: MICHAEL R. SHEMONSKY,

Petitioner.

PETITION FOR WRIT OF MANDAMUS

MICHAEL R. SHEMONSKY
268 Washington Street
East Stroudsburg, PA 18301
570-421-8260

QUESTIONS PRESENTED FOR REVIEW

1. Can Judge Vanaskie issue an order from the bench without a complaint or adverse party?

2. Can the F.B.I. arrest a citizen without a warrant, indictment or due cause?

3. Can a United States District Court Judge commit perjury in an F.B.I. complaint?

4. Can an Assistant U.S. Attorney have you arrested, to keep you out of harm's way, because the U.S. Marshals were ordered to commit premeditated murder?

5. Can an Assistant U.S. Attorney call Petitioner's son, a minor at the time of the phone call, in an effort to intimidate him and libel Petitioner?

6. Can Judge Vanaskie inflict serious and irreparable harm to Atlantic Financial via an injunction on Petitioner (Appendix C)?

7. Can Judge Vanaskie issue an injunction when the pending actions were removals from state court?

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PETITION FOR WRIT OF MANDAMUS

Petitioner, Michael R. Shemonsky, respectfully prays that a Writ of Mandamus be issued upon the Third Circuit Court of Appeals to compel them to void the injunction against Michael R. Shemonsky and to return the assets Atlantic Financial plus court awarded damages from 1-11-90.

OPINIONS BELOW

The unpublished opinions of the Third Circuit Court of Appeals appear in Appendix A.

JURISDICTION

The Court of Appeals order in this matter was filed January 2, 2003. This court's jurisdiction is invoked under Title 28 USC Section 1651(A).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

Amendment V to the United States Constitution is set forth in Appendix B, exhibit to this petition.

STATEMENT OF THE CASE

Michael R. Shemonsky, Petitioner, is the alter ego of Atlantic Financial, a savings and loan.

On May 1, 1982, Atlantic Financial loaned the United States government $458,654,000.00 at 45% interest compounded daily for supervisory goodwill contracts.

On August 9, 1989, the United States government breached its supervisory goodwill contracts with the passage of FIRREA, a Fifth Amendment taking.

On January 11, 1990, M. Danny Wall, the unconstitutionally appointed director of the Office of Thrift Supervision illegally and fraudulently seized Atlantic Financial even though our receivable totalled $1,064,422,970.00 from the United States government (U.S. v. Winstar Corp. et al., 518 US 839 (1996)).

On January 7, 1994, the F.B.I. illegally arrested the Petitioner without a warrant or indictment. (Violation of the Fifth Amendment of the Constitution.)

On January 16, 2003, Thomas Vanaskie, Chief Judge of the United States District Court for the Middle District of Pennsylvania, ordered an injunction from the bench without a hearing, restraining Petitioner from filing any papers in any court pertaining to his illegal arrest and/or Atlantic Financial. (Violation of the Fifth Amendment of the Constitution.)

REASONS FOR GRANTING THE WRIT

1. Shemonsky, the party seeking the writ, does not have any other means to obtain the desired relief due to fraud by the United States government.

2. Shemonsky was harmed by a prejudicial appeal by the Third Circuit Court of Appeals.

3. The United States Court of Appeals for the Third Circuit erred and abused its discretion.

4. The Chief Judge of the United States District Court for the Middle District of Pennsylvania erred and abused his discretion.

5. The writ raises important and novel problems or issues of law.

REASONS FOR NOT MAKING APPLICATION IN THE DISTRICT

The writ raises constitutional issues concerning the illegal arrest by the F.B.I. and subsequent commitment by the court, as well as the illegal restraining order by the United States District Court for the Middle District of Pennsylvania with multiple criminal violations by the judicial officers of the court.

EXCEPTIONAL CIRCUMSTANCES TO WARRANT THE COURT'S DISCRETIONARY POWERS

Petitioner bought stocks and bonds in a savings and loan, Atlantic Financial Federal, and has been arrested by the F.B.I. and committed to Butner North Carolina Mental Hospital. Also Petitioner has numerous injunctions against him, put in place by the Third Circuit Court of Appeals, the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the Middle District of Pennsylvania. Petitioner has proven to the F.B.I. Bank Fraud Squad in Pennsylvania that the savings

and loan crisis was indeed a beguiling by Ronald Reagan and George H.W. Bush. Petitioner has found no other means of obtaining relief from any other court.

CONCLUSION

It is the opinion of Petitioner that there has been a conspiracy by the United States government and its judicial system. Therefore, petitioner seeks relief through the exercise of this Court's powers.

Dated: October 26, 2004

Respectfully submitted,

MICHAEL R. SHEMONSKY
268 Washington Street
East Stroudsburg, PA 18301
570-421-8260

APPENDIX A

HPS-32 UNREPORTED – NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 02-4081

IN RE: MICHAEL R. SHEMONSKY,

Petitioner

On Petition for a Writ of Mandamus
to convene a grand jury

Submitted Under Rule 21, *Fed. R. App. P.*
December 11, 2002

Before: *CHIEF JUDGE* BECKER,
WEIS AND GARTH, *CIRCUIT JUDGES*

(Filed January 2, 2003)

OPINION

PER CURIAM

On November 5, 2002, Michael R. Shemonsky filed a petition for writ of mandamus. He requests that this Court compel the United States Attorney for the Middle District of Pennsylvania, Thomas Marino, to convene a grand jury for the purpose of permitting Shemonsky, as "Grand Master," to query the grand jury regarding the "return of

Shemonsky Financial to the stockholders with damages of $500,000,000 plus interest per year from 1-11-90." We note that Shemonsky's mandamus petition is unrelated to his most recent federal court action, *Shemonsky v. United States District Court for the Middle District of Pennsylvania*, Civ. No. 02-cv-01410 (M.D. Pa), filed in August, 2002.

Mandamus is an appropriate remedy only in the most extraordinary of situations. *Sporck v. Peil*, 759 F.2d 312, 314 (3d Cir. 1985). To justify the remedy, a petitioner must show that he has (i) no other adequate means of obtaining the desired relief and (ii) a "clear and indisputable" right to issuance of the writ. *Haines v. Liggett Group, Inc.*, 975 F.2d 81, 89 (3d Cir. 1992) (citing *Kerr v. United States Dist. Court*, 426 U.S. 394, 402 (1976)).

The authority to convene a grand jury is vested in the District Court, not the United States Attorney. *See Petition of A & H Transp., Inc.*, 319 F.2d 69, 71 (4th Cir. 1963). A Court of Appeals cannot, by mandamus or any extraordinary writ, inject itself into the discretionary area reserved to the District Court, absent some showing of a flagrant abuse of discretion. *See Korman v. United States*, 486 F.2d 926, 933 (7th Cir. 1973). Shemonsky has made no such showing. Moreover, it is settled that no citizen has an enforceable right to insist on the initialization of criminal proceedings. *Linda R.S. v. Roland D.*, 410 U.S. 614, 619 (1973); *see also Peek v. Mitchell*, 419 F.2d 575 (6th Cir. 1970) (holding that mandamus cannot be used to compel Attorney General or United States Attorney to prosecute known civil rights violators). In short, because Shemonsky has not shown a clear and undisputable right to the relief he seeks, his petition for a writ of mandamus will be denied.

HPS-32

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

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December 11, 2002

Before: *CHIEF JUDGE* BECKER, WEIS AND
GARTH, *CIRCUIT JUDGES*

JUDGMENT

This cause came on to be heard on a petition for writ of mandamus. On consideration whereof, it is now here

ORDERED AND ADJUDGED by this Court that the petition for writ of mandamus be, and the same is, denied.

All of the above in accordance with the Opinion of the court.

ATTEST:
/s/ Marien M. Waldron
CLERK

DATED: January 2, 2003

APPENDIX B

The Constitution

AMENDMENT V [1791]

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offence to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

APPENDIX C

Shemonsky Financial
(A Mutual Association)
268 Washington Street
East Stroudsburg, PA 18301

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Voice: 570-421-8260 Fax: 570-476-9762

RE: 8Q Under the S.E.C. Act of 1934 –
Executive Changes

At a special board meeting held July 21, 2003, Michael R. Shemonsky resigned as Chief Executive Officer of Atlantic Financial and will receive a severance package amounting to $5 trillion. He will remain as Chairman of the Board and Chief Financial Officer. Nicholas C. Shemonsky, acting C.E.O., was named Chief Executive Officer.

The above changes are necessary to move Atlantic Financial forward due to the illegal injunction by Thomas I. Vanaskie. Michael R. Shemonsky plans to file a civil rights complaint against Mr. Vanaskie as well as his superiors, the Third Circuit Judicial council, in the near future.

Date: 7-22-03

Michael R. Shemonsky,
Chairman of the Board